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IAP3 Rec'd PCT/PTO 02 MAR 2006

PC #8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-----------------------------------|---|------------------------|
| In re Application of: |) | Confirmation No.: 4128 |
| Rene DJURUP et al |) | |
| |) | Examiner: |
| |) | |
| Serial No.: 10/524,434 |) | Washington, D.C. |
| |) | |
| Filed: February 15, 2005 |) | March 2, 2006 |
| |) | |
| For: BACTERIAL, ANTI-APOPTOTIC... |) | Docket No.: DJURUP1 |

INFORMATION DISCLOSURE STATEMENT [IDS] NO. 2

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop Amendment
401 Dulany Street
Alexandria, VA 22314

S i r :

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. 1.97, 1.98, and it is requested that the information set forth in this statement and in the listed documents be considered during the pendency of the above-identified application, and any other application relying on the filing date of the above-identified application or cross-referencing it as a related application.

1. This IDS should be considered, in accordance with 37 C.F.R. 1.97, as it is filed:

[] A. within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above-identified international application. See 37 CFR 1.97(b).

[X] B. before the mailing date of a first office action on the merits. See 37 CFR 1.97(b).

[] C. after (A) and (B) above, but before final

rejection or allowance, and Applicants have made the necessary certification (box "i" below) or paid the necessary fee (box "ii" below). See 37 CFR 1.97(c).

☐ i. Counsel certifies that, upon information and belief, each item of information listed herein was either (a) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS or (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

☐ ii. A check for the fee set forth in 1.17(p), presently believed to be \$180, is enclosed (check no. _____).

☐ D. after (A), (B) and (C) above, but before payment of the issue fee. Applicant petitions under 37 C.F.R. 1.97(d) for consideration of this IDS. A check for the fee set forth in 1.17(i)(1), presently believed to be \$130 is enclosed (check no. _____). Counsel certifies that, upon information and belief, each item of information listed herein was either (i) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS or (ii) was not cited in a communication from a foreign patent office in a counterpart foreign application and was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

☐ E. As a submission in accordance with the transitional procedure for limited examination after final rejection pursuant to 37 CFR §1.129(a). Pursuant to MPEP §706.07(g), page 700-46, col. 2 (February 2000), this IDS is treated as if filed with a period set forth in 37 CFR §1.97(b) and considered without the petition and petition fee required by 1.97(d).

2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO-1449) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment hereto. A copy of each document is attached, except as explained below.

☒ While an IDS filed under §1.97 must contain a "list of all patents, publications or other information submitted for consideration by the Office", see §1.98(a) (1), the only requirement for the list is that it provide the information set forth in §1.98(b). There is no requirement that a form PTO-1449 be used (MPEP §609 merely says that use of this form is "encouraged"). Counsel has used a list provided to him by Applicants, and not transferred the information to a PTO-1449, to avoid the risk of any inadvertent error in transferring the information.

☐ A. Documents _____ are deemed substantially cumulative to documents _____, and, in accordance with 1.98(c), only a copy of each of the latter documents is enclosed.

☐ B. Certain documents were previously cited by or submitted to the Office in the following prior application(s),

which are relied upon under 35 U.S.C. 120:

[insert serial number/filing date]

Applicants identify these documents by attaching hereto copies of the form PTO-892s and PTO-1449s from the files of the prior applications or a fresh PTO-1449 listing these documents, and request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application. If copies of any of these documents cannot be found in the files of the prior applications, the Examiner is requested to so notify counsel before taking action in this case, so replacement copies can be submitted. While an IDS filed under §1.97 must contain a "list of all patents, publications or other information submitted for consideration by the Office", see §1.98(a) (1), the only requirement for the list is that it provide the information set forth in §1.98(b). There is no requirement that a form PTO-1449 be used (MPEP §609 merely says that use of this form is "encouraged") and no prohibition on submitting a copy of a form PTO-1449 or form PTO-892 from a prior case. Indeed, the re-use of such forms is desirable as it avoids error in transferring the information, and evidences that the reference was considered in a prior application. A previously accepted PTO-1449, or an examiner-prepared PTO-892, necessarily complies with §1.98(b).

[] 3. Documents _____ are not in the English language. In accordance with 1.98(c), Applicants state:

[] documents _____ already contain an English language abstract, summary or claim set.

[] a publicly available abstract is attached to each

of documents _____, and the source of each abstract is indicated thereon.

- [] documents _____ are patents or published patent applications for which counterpart English language patents or patent applications exist, and are enclosed, as follows:

| <u>Foreign Lang. Doc.#</u> | <u>English Lang. Doc.#</u> |
|----------------------------|----------------------------|
| [insert] | [insert] |

- [] applicants have prepared an English translation of at least the pertinent portions of documents _____, and copies are attached.

- [] A concise explanation of the relevance of documents _____ is found in the attached search report from the _____ Patent Office (see reply to Comment 68 in the preamble to the final rules; 1135 OG 13 at 20).

- [] A concise explanation of the relevance of documents _____ is set forth as follows:

[Insert concise explanation of relevance]

4. No explanation of relevance is necessary for documents in the English language (see reply to Comments 67 and 68 in the preamble to the final rules; 1135 OG 13 at 20).

5. Other information being provided for the examiner's consideration follows:

[insert other information]

6. In accordance with 37 C.F.R. 1.97(g) and (h), the filing of this IDS should not be construed as a representation that a search has been made or that information cited is, or is considered to be, material to patentability as defined in §1.56


(b), or that any cited document listed or attached is (or constitutes) prior art. Unless otherwise indicated, the date of publication indicated for an item is taken from the face of the item and Applicant reserves the right to prove that the date of publication is in fact different.

7. The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035.

Respectfully submitted,

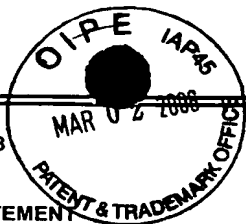
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SUBSTITUTE FOR FORM IPC/SB/08

ATTY DOCKET NO: DJURUP1

SERIAL NO: 10/524,434

INFORMATION DISCLOSURE STATEMENT
LIST OF DOCUMENTS CITED BY APPLICANT

APPLICANT: DJURUP, et al.

FILING DATE: February 15, 2005

GROUP:

U.S. PATENT DOCUMENTS (include at least patentee, patent number and issue date)

| EXAMINER INITIAL | | DOCUMENT NUMBER | | | | | | | DATE | PATENTEE | CLASS | SUB-CLASS | FILING DATE IF APPROP. |
|------------------|----|-----------------|---|---|---|---|---|---|------------------|----------|-------|-----------|------------------------|
| | AL | 4 | 5 | 9 | 9 | 3 | 1 | 1 | July 8, 1986 | Kawasaki | | | |
| | AM | 4 | 6 | 8 | 3 | 2 | 0 | 2 | July 28, 1987 | Mullis | | | |
| | AN | 5 | 4 | 5 | 8 | 8 | 7 | 4 | October 17, 1995 | Pereira | | | |
| | AO | 5 | 4 | 8 | 4 | 8 | 8 | 5 | January 16, 1996 | Pereira | | | |
| | AP | 6 | 1 | 0 | 7 | 4 | 6 | 0 | August 22, 2000 | Pereira | | | |

FOREIGN PATENT DOCUMENTS (include at least document number, publication date and country)

| | | DOCUMENT NUMBER | | | | | | | DATE | COUNTRY | CLASS | SUB-CLASS | TRANSLATION YES/NO |
|--|----|-----------------|---|---|---|---|---|---|--------------------|-----------------------|-------|-----------|--------------------|
| | AQ | 0 | 2 | 3 | 8 | 0 | 2 | 3 | September 23, 1987 | European Patent Appl. | | | N/A |
| | AR | 8 | 9 | 0 | 8 | 6 | 6 | 6 | September 21, 1989 | PCT | | | N/A |
| | AS | 9 | 1 | 0 | 0 | 9 | 0 | 7 | January 24, 1991 | PCT | | | N/A |

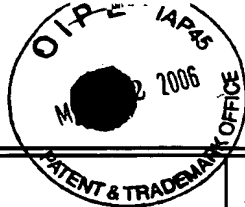
OTHER DOCUMENTS (include author, title, name of publication, volume, pages & date of publication)

| | | | | | | | | | | | | | |
|--|----|--|--|--|--|--|--|--|--|--|--|--|--|
| | AT | Alber, T., Kawasaki, G. "Nucleotide Sequence of the Triose Phosphate Isomerase Gene of <i>Saccharomyces cerevisiae</i> " Jour. of Molecular and Applied Genetics, 1982, 1:419-434. | | | | | | | | | | | |
| | AU | Beaucage, S. L., Caruthers, M.H. "Deoxynucleoside Phosphoramidites-A New Class of Key Intermediates for Deoxypolynucleotide Synthesis" 1981, Tetrahedron Lett. 22:1859-1869. | | | | | | | | | | | |
| | AV | Chertov, O, et al. "Identification of Defensin-1, Defensin-2, and CAP37/Azurocidin as T-cell Chemoattractant Proteins Released from Interleukin-8-stimulated Neutrophils" 1996, J. Biol. Chem. 271:2935-2940 | | | | | | | | | | | |
| | AW | Corsaro, C.M., Pearson, M.L. "Enhancing the Efficiency of DNA-Mediated Gene Transfer in Mammalian Cells" 1981, Somatic Cell Genetics, Vol. 7, No. 5, p. 603-616. | | | | | | | | | | | |
| | AX | Flodgaard, H., et al. "Covalent structure of two novel neutrophil leucocyte-derived proteins of porcine and human origin" 1991, Eur. J. Biochem. 197: 535-547. | | | | | | | | | | | |
| | AY | Gabay, J.E., et al. "Antibiotic proteins of human polymorphonuclear leukocytes" 1989, Proc. Natl. Acad. Sci. U.S.A. 86:5610-5614. | | | | | | | | | | | |
| | AZ | Gautam, N., et al. "Kinetics of leukocyte-induced changes in endothelial barrier function" 1998 Br. J. Pharmacol. Nov;125(5):1109-14. | | | | | | | | | | | |
| | BA | Graham, F.L., van der Eb, A.J. "A new technique for the assay of infectivity of Human Adenovirus 5 DNA" 1973, Virol. 52:456-467. | | | | | | | | | | | |
| | BB | Hitzeman, R.A., et al. "Isolation and Characterization of the Yeast 3-Phosphoglycerokinase Gene (PGK) by an Immunological Screening Technique" 1980, J. Biol. Chem. 255:12073-12080 | | | | | | | | | | | |

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



SUBSTITUTE FOR FORM IPC/SB/08

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LIST DOCUMENTS CITED BY APPLICANT
(Use several sheets if necessary)

ATTY DOCKET NO: DJURUP1

SERIAL NO: 10/524,434

APPLICANT: DJURUP, et al.

FILING DATE: February 15, 2005

GROUP:

OTHER DOCUMENTS (Include author, title, name of publication, volume, pages and date of publication)

| | |
|----|--|
| BC | Kaufman, R.J., Sharp, P.A. "Amplification and Expression of Sequences Cotransfected with a Modular Dihydrofolate Reductase Complementary DNA Gene" J. Mol. Biol. 159, 1982, pp. 601-621 |
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| BE | Liao, Ji, et al. "Lipopolysaccharide Affinity Measurement by Scintillation Proximity Assay: Application to Human Heparin Binding Protein" Biotechniques 2000, 28:218-20 |
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| BH | Matthes, H.W.D., et al. "Simultaneous rapid chemical synthesis of over one hundred oligonucleotide son a microscale" 1984, EMBO J. 3:801-805. |
| BI | McKnight, G.L., et al. "Identification and molecular analysis of a third <i>Aspergillus nidulans</i> alcohol dehydrogenase gene" 1985, EMBO J. 4:2093-2099 |
| BJ | Mercer-Jones, M., et al. "Monocyte recruitment increases survival in fecal peritonitis" 1996, Surgical Forum, pp. 105-108 |
| BK | Neumann, E., et al. "Gene transfer into mouse lyoma cells by electroporation in high electric fields" 1982, EMBO J. 1:841-845. |
| BL | Olofsson, AM., et al. "Heparin-binding protein targeted to mitochondrial compartments protects endothelial cells from apoptosis" 1999, J. Clin. Invest., 104:885-894. |
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| BN | Palmiter, R.D., et al. "Metallothionein-Human GH Fusion Genes Stimulate Growth og Mice" 1983, Science 222: 809-814 |
| BO | Pereira, H.A., et al. "CAP37, a Human Neutrophil-derived Chemotactric Factor with Monocyte Specific Activity" 1990, J. Clin. Invest. 85:1468-1476 |
| BP | Pereira, H.A., et al. "Synthetic bactericidal peptide base don CAP37: A 37-kDa human neutrpil granule-associated cationic antimicrobial protein chemotactic for monocytes" 1993, Proc. Natl. Acad. Sci. USA 90: 4733-7 |
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EXAMINER

DATE CONSIDERED

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| SUBSTITUTE FOR FORM IPC/SB/08 INFORMATION DISCLOSURE STATEMENT LIST DOCUMENTS CITED BY APPLICANT (Use several sheets if necessary) | | ATTY DOCKET NO: DJURUP1 | | SERIAL NO: 10/524,434 |
| | | APPLICANT: LEUKOTECH | | |
| | | FILING DATE: February 15, 2005 | | GROUP: |
| OTHER DOCUMENTS (include author, title, name of publication, volume, pages and date of publication) | | | | |
| | BR | Pohl, J., et al. "Amino acid sequence of CAP37, a human neutrophil granule-derived antibacterial and monocyte-specific chemotactic glycoprotein structurally similar to neutrophil elastase" 1990, FEBS Lett. 272: 200 ff. | | |
| | BS | Rasmussen, P.B., et al. "Characterization of recombinant human HBP/CAP37/azurocidin, a pleiotropic mediator of inflammation-enhancing LPS-induced cytokine release from monocytes" 1996, FEBS Lett. 390:109-112 | | |
| | BT | Renne, T., et al. "Experimental procedure" J. Biol. Chem, 275, 2000, 33688-33696. | | |
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| | BV | Shafer, W.M., et al. "Late Intraphagosomal Hydrogen Ion Concentration Favors the In Vitro Antimicrobial Capacity of a 37-Kilodalton Cationic Granule Protein of Human Neutrophil Granulocytes" Infect. Immun. 1986, 53:651-55 | | |
| | BW | Shrotri M.S., et al. "Heparin-binding protein Decreases Apoptosis in Human and Murine Neutrophils" Journal of Surgical Research, 89, 53-59, 2000. | | |
| | BX | Southern and Berg. "Transformation of Mammalian Cells to Antibiotic Resistance with a Bacterial Gene Under Control of the SV40 Early Region Promotor" 1982, J. Mol. Appl. Genet. 1:327-341 | | |
| | BY | Subramani, S., et al. "Expression of the Mouse Dihydrofolate Reductase Complementary Deoxyribonucleic Acid in Simian Virus 40 Vectors" 1981, Mol. Cell Biol. 1:854-864 | | |
| | BZ | Vasuvedan, S., et al. "Muscarinic acetylcholine receptor produced in recombinant baculovirus infected Sf9 insect cells couples with endogenous G-proteins to activate ion channels" 1992, FEBS Lett. 311:7-11 | | |
| | CA | Wigler, M., et al. "Biochemical Transfer of Single-Copy Eucaryotic Genes Using Total Cellular DNA as Donor" 1978, Cell 14:725-731. | | |
| | CB | Wilde, C.G., et al. "Characterization of Two Azurophil Granule Proteases with Active-site Homology to Homology to Neutrophil Elastase" 1990, J. Biol. Chem. 265:2038-41 | | |
| | CC | Young T., et al. "The alcohol dehydrogenase genes of the yeast, saccharomyces cerevisiae: Isolation, structure and regulation" 1982, in Genetic Engineering of Microorganisms for Chemicals. | | |
| | CD | Wickel et al., 1997, "Heparin binding protein increases survival in murine peritonitis", In: <u>4th International Congress on the Immune Consequences of Trauma, Shock and Sepsis</u> , Munich, Germany, pp. 413-416 | | |
| | CE | Saiki, R.K., et al. "Primer-Directed Enzymatic Amplification of DNA with a Thermostable DNA Polymerase" 1988, Science 239:487-491. | | |
| EXAMINER | | DATE CONSIDERED | | |
| EXAMINER: Initial if reference considered. Draw line through citation if not in conformance <u>and</u> not considered. Include copy of this form with next communication to applicant. | | | | |